

THE HON'BLE Mr. JUSTICE N.V. RAMANA

Writ Petition No.20912 of 2000

-

Dated: December 22, 2005

-

-

Between:

Smt. Koppisetty Varalakshmi,
W/o. late Satyanarayana, aged about 37 years,
R/o. Polipalli Village, Bohagapuram Mandal,
Vizianagaram District.

... Petitioner

And

APSRTC, represented by its Managing Director,
Mushirabad, Hyderabad, and two others.

... Respondents

Order:

Petitioner, by this writ petition, seeks Mandamus directing the respondents to provide her any job of Class-IV in the depot of Respondent No.3, by declaring

Proceedings P2/255(15)/2000-RM/VSP dated 28-07-2000 issued by Respondent No.2, as illegal, void and without jurisdiction.

2. Petitioner is the wife of one Mr. Satyanarayana, who committed suicide on 12-10-1992 while working as a Conductor in APSRTC at Maddilapalem Depot, Visakhapatnam. She states that her husband was removed from service on 24-09-1992, and thereafter, he committed suicide. It is the case of the petitioner that the respondent-management harassed her husband by suspending him from service. It is stated that petitioner, basing on a certificate issued by the Mandal Revenue Officer, on 14-12-1992, certifying that she is the only legal heir of her deceased husband, got issued a lawyer's notice to Respondent No.2, requesting him to provide her any sort of employment for her livelihood. It is stated that on 28-07-2000, Respondent No.2 issued a reply stating that the petitioner's husband died after he was removed from service; therefore, she is not entitled for any job, and advised her that she can claim Additional Monetary Benefit from the Depot Manager. Challenging the said proceedings, the present writ petition has been filed.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of the respondents, APSRTC.

4. At this stage, the learned counsel for the petitioner submitted that as per the circulars in vogue, the petitioner is entitled for Additional Monetary Benefit and hence the petitioner may be permitted to make representation to the respondents for Additional Monetary Benefit as per the Circulars in vogue. The learned Standing Counsel for the respondents admitted the same and expressed 'No objection'.

5. Therefore, I deem it appropriate to dispose of the writ petition with the following directions. -

The petitioner is directed to make an application to the respondents seeking Additional Monetary Benefit and on such application being made, the respondents shall settle the claim of the petitioner for Additional Monetary Benefit, expeditiously in accordance with the circular instructions.

6. The writ petition is disposed of with the above directions. No costs.

N.V. RAMANA, J.

December 22, 2005

MRR

Respondents filed counter affidavit stating that the petitioner's husband was appointed as Conductor on 06-01-1979, and while he was discharging duties at Simhachalam, he was removed from service with effect from 03-05-1985, due to long unauthorized absence. Against the said removal, he raised I.D.No.85/88 before the Labour Court, Visakhapatnam. In compliance of the award of the Labour Court, petitioner was reinstated into service and was posted to Maddilapalem Depot. From the date of reporting, he remained absent unauthorizedly.

It is stated that the Superintendent (Traffic), Maddilapalem, has submitted a report on 02-07-1991 on the irregular attendance and unauthorized absence of the petitioner's husband. Basing on the said report, a charge sheet was issued to him on 04-07-1991 and on receipt of explanation, enquiry was ordered. After conducting enquiry, the Enquiry Officer submitted his report finding the petitioner's husband guilty. As there was no improvement in the attitude of the petitioner, he was removed from service. Thereafter, a show cause notice was issued to him on 04-01-1991, and in response to the same, he submitted his explanation on 12-09-1991, which was kept in abeyance with a hope that there would be an improvement in the petitioner's attitude. But, petitioner again remained absent unauthorizedly; his last unauthorized absence was from 12-04-1992 to 24-09-1992. At that stage, removal proceedings were issued on 24-09-1992 by exhibiting the same on the Notice Board and a copy of the same was sent to his residential address on 09-10-1992 and no acknowledgement has been received so far. Thereafter, the petitioner's husband died on 12-10-1992 by committing suicide. It is vehemently denied that petitioner's husband expired while in service. He was removed from service with effect from 24-09-1992, whereas he died on 12-10-1992 and hence he was not on the rolls of the corporation as on the date of death. It is further stated that the EDLIF and SBT amounts were paid as per the special sanction of Vice Chairman & Managing Director on 04-10-1993 and there are no final settlement salary bill amounts payable to the wife of the deceased. After removal of the petitioner's husband, there is no employer and employee relationship. It is further stated that the wife of the deceased issued a notice on 25-06-2000 requesting to provide her a suitable job in the organization for which she was informed through letter dated 28-07-2000 stating that she is not entitled either for compassionate appointment under the Bread Winner Scheme or for Additional Monetary Benefit since the date of death of her husband was on 12-10-1992, i.e. after the date of her husband's removal from service, i.e. 24-09-1992. Further, as per the circular instructions, an application for compassionate

appointment ought to be submitted within 3 years from the date of death of an employee, but the same has not been done in the present case, but a representation was filed after a long lapse of 8 years. Hence, it is prayed to dismiss the writ petition.

4. Petitioner, after a lapse of 8 years after her husband's death, on 25-06-2000, issued a legal notice to the respondents seeking compassionate appointment in a suitable post in the respondent-corporation. The respondents rejected the same by reply letter dated 28-07-2000 stating that employment in APSRTC to the children/spouse under the Bread Winner Scheme is being offered only when the employee dies while he is in service. The spouse/children of the removed employees who died after removal from service are not eligible and do not come under the provisions of the scheme. Since petitioner's husband died after his removal from service, it was stated in the impugned order that petitioner's wife is neither eligible for compassionate appointment, nor for the Additional Monetary Benefit. Admittedly, petitioner submitted her representation to the respondents seeking compassionate appointment in a suitable post after a long lapse of 8 years after the death of her husband, that too, knowing that her husband died when he was not in service. Hence, the action of the respondents in rejecting the petitioner's claim for compassionate appointment cannot be found fault with.

5. The writ petition is devoid of merit, and is accordingly dismissed. No costs.